

SENATE BILL 124

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K3  
HB 1283/00 - HRU

2003 Regular Session  
3r1253  
CF 3r0287

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By: **Senators Kelley, Della, Dyson, Exum, Giannetti, Grosfeld, Hollinger,  
Kasemeyer, McFadden, and Stone**

Introduced and read first time: January 24, 2003

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Employment Contracts - Broadcast Industry - Noncompete Provisions**

3 FOR the purpose of providing that broadcast industry employment contracts may not  
4 include noncompete provisions that prohibit the right of a broadcast industry  
5 employee to seek or obtain certain employment after termination of the  
6 employment contract or employment relationship; providing that a noncompete  
7 provision is void and unenforceable; authorizing an employee who is the subject  
8 of a noncompete provision to seek certain damages, attorney's fees, and costs in  
9 a civil action; providing for the application of this Act; and generally relating to  
10 a prohibition against the inclusion of noncompete provisions in broadcast  
11 industry employment contracts.

12 BY adding to  
13 Article - Labor and Employment  
14 Section 3-708  
15 Annotated Code of Maryland  
16 (1999 Replacement Volume and 2002 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Labor and Employment**

20 3-708.

21 (A) IN THIS SECTION, "BROADCAST INDUSTRY EMPLOYMENT CONTRACT"  
22 MEANS A CONTRACT OR AGREEMENT THAT ESTABLISHES THE TERMS AND  
23 CONDITIONS OF EMPLOYMENT BETWEEN A PROSPECTIVE OR CURRENT EMPLOYEE  
24 AND AN EMPLOYER THAT IS AN ENTITY IN THE BROADCASTING INDUSTRY,  
25 INCLUDING:

26 (1) A TELEVISION STATION;

27 (2) A TELEVISION NETWORK;

1 (3) A RADIO STATION;

2 (4) A RADIO NETWORK;

3 (5) A SATELLITE-BASED SERVICE SIMILAR TO A BROADCAST STATION  
4 OR NETWORK;

5 (6) AN ENTITY AFFILIATED WITH ONE OF THE ENTITIES LISTED IN  
6 ITEMS (1) THROUGH (5) OF THIS SUBSECTION; OR

7 (7) ANY OTHER ENTITY THAT PROVIDES BROADCASTING SERVICES  
8 SUCH AS NEWS, WEATHER, TRAFFIC, SPORTS, OR ENTERTAINMENT PROGRAMMING.

9 (B) (1) THIS SUBSECTION APPLIES TO A BROADCAST INDUSTRY  
10 EMPLOYMENT CONTRACT:

11 (I) THAT IS EXECUTED IN THE STATE;

12 (II) TO WHICH AN EMPLOYEE IN THE STATE IS A PARTY; OR

13 (III) TO WHICH AN EMPLOYER DOING BUSINESS IN THE STATE IS A  
14 PARTY.

15 (2) A BROADCAST INDUSTRY EMPLOYMENT CONTRACT MAY NOT  
16 CONTAIN A NONCOMPETE PROVISION THAT RESTRICTS THE RIGHT OF THE  
17 EMPLOYEE TO SEEK OR OBTAIN EMPLOYMENT WITH ANOTHER EMPLOYER  
18 DESCRIBED IN SUBSECTION (A) OF THIS SECTION AFTER EXPIRATION OR  
19 TERMINATION OF THE EMPLOYMENT CONTRACT OR EMPLOYMENT RELATIONSHIP.

20 (C) A NONCOMPETE PROVISION PROHIBITED UNDER SUBSECTION (B) OF THIS  
21 SECTION IS VOID AND UNENFORCEABLE.

22 (D) AN EMPLOYER THAT INCLUDES A NONCOMPETE PROVISION PROHIBITED  
23 UNDER SUBSECTION (B) OF THIS SECTION IN A BROADCAST INDUSTRY EMPLOYMENT  
24 CONTRACT MAY BE HELD LIABLE IN A CIVIL ACTION BY THE EMPLOYEE WHO IS THE  
25 SUBJECT OF THE CLAUSE IN A COURT OF COMPETENT JURISDICTION FOR:

26 (1) DAMAGES THAT THE EMPLOYEE SUSTAINS AS A RESULT OF THE  
27 ATTEMPTED ENFORCEMENT BY THE EMPLOYER OF THE PROHIBITED CLAUSE; AND

28 (2) REASONABLE ATTORNEY'S FEES AND COSTS ASSOCIATED WITH ANY  
29 LITIGATION BY OR AGAINST THE EMPLOYEE THAT RELATES TO THE NONCOMPETE  
30 CLAUSE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to  
32 any broadcast industry employment contract executed, extended, or renewed on or  
33 after the effective date of this Act.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2003.